

1 Q. Does Heim know what type of parts were
2 going to be worked with utilizing the press?

3 MR. ROBINSON: Just -- I don't mean to be
4 difficult. When you say press, I assume you're
5 meaning press brake.

6 MR. HARTMAN: We're talking about the
7 particular press brake.

8 MR. ROBINSON: It is a press brake, it is not a
9 press, as this witness has indicated.

10 BY MR. HARTMAN:

11 Q. When I refer I -- I will tell you this,
12 that when I refer to this particular press brake,
13 if I utilize the term -- shortened term press, I
14 will always mean press brake. If I say press and
15 you agree, I'm not going to say it's something
16 other than a press brake.

17 MR. ROBINSON: I appreciate that.

18 BY MR. HARTMAN:

19 Q. Is that fair?

20 A. Fair.

21 Q. When we go beyond that then I'm going to
22 be talking specifically mechanical presses, press
23 brakes and punch presses, do you understand that?

24 A. I understand.

1 Q. Do you know what type of parts were going
2 to be formed utilizing the press brake that's
3 involved in this lawsuit?

4 MR. ROBINSON: At its original purchase?

5 MR. HARTMAN: Yes.

6 THE WITNESS: I don't believe they knew.

7 BY MR. HARTMAN:

8 Q. As a sales manager, when a customer
9 contacts you to purchase a press brake, would you
10 inquire as to what type of parts the customer's
11 going to utilize the press brake for in order to
12 ascertain the capacity of the press brake that fits
13 the customer's needs?

14 MR. ROBINSON: I'll object to the form of the
15 question.

16 THE WITNESS: No.

17 BY MR. HARTMAN:

18 Q. Tell me how it works that a customer --
19 tell me how it works with regard to typically --
20 strike that.

21 Is there a typical scenario where a person
22 purchases a press brake?

23 A. Yes.

24 Q. Okay. Tell me the typical scenario?

1 A. I believe the scenario would be a customer
2 already has a knowledge of what he wants to
3 produce, has researched that product and would
4 provide a manufacturer such as Heim or someone else
5 a typical tonnage such as a 70 ton, a certain
6 length being a 6 foot would be the request. It is
7 a general purpose machine.

8 Q. Okay. So the typical sales transaction
9 does not involve Heim trying to ascertain what the
10 press brake is going to be utilized for?

11 A. Correct.

12 Q. The customer makes that decision and makes
13 the request from Heim as to the size of tonnage and
14 the length of the bed?

15 A. Correct.

16 MR. ROBINSON: Just so we have the correct
17 terminology down, when you use the term customer,
18 you might want to ask some questions or delve into
19 that issue because many times these go through
20 distributors which, in fact, is a customer and not
21 the end user.

22 MR. HARTMAN: That's fair. Thank you for that.

23 BY MR. HARTMAN:

24 Q. Was this a direct purchase by Afco --

1 MR. ROBINSON: That's it.

2 BY MR. HARTMAN:

3 Q. Was that a direct purchase where Afco had
4 communications directly with Heim or was it a
5 hybrid where they purchased it through the
6 distributor and had direct communication with Heim
7 or did Afco just have communication with the
8 distributor?

9 A. I believe this purchase was as an end user
10 through a distributor to Heim.

11 Q. Did Heim have communication with Afco
12 Lycomie with regard to the purchase and sale of
13 this press brake?

14 A. I don't believe that's the case.

15 Q. So -- in looking at the manual and the
16 sales, it appears that a foot pedal accompanied
17 this press brake?

18 A. Yes.

19 Q. Am I correct that a foot pedal -- strike
20 that.

21 According to the manual a foot pedal came
22 standard with regard to these press brakes?

23 MR. ROBINSON: What's the question?
24

1 BY MR. HARTMAN:

2 Q. Am I correct?

3 MR. ROBINSON: What is the question, does the
4 manual?

5 BY MR. HARTMAN:

6 Q. No. Does a foot pedal come standard with
7 the press brakes?

8 MR. ROBINSON: With any press brake, is that
9 what you're asking.

10 MR. HARTMAN: Yes .

11 MR. ROBINSON: I object to the form. You can
12 answer, if you can, Mr. Mase.

13 THE WITNESS: I would answer that question the
14 end user or the purchaser of the machine would
15 choose a form of actuation being a foot switch or a
16 palm button station.

17 BY MR. HARTMAN:

18 Q. And I'm not trying to be tricky here, it
19 was my understanding in reading through the manual
20 and the purchasing documents that a foot pedal is
21 standard, the palm button was the option?

22 MR. ROBINSON: There's no question on the
23 table.

24

1 BY MR. HARTMAN:

2 Q. Is that correct?

3 MR. ROBINSON: Hold on. He's not answering the
4 question whether or not it's your understanding.

5 MR. HARTMAN: That's fine.

6 MR. ROBINSON: And it's also compound in that
7 you've referenced the manual and the purchasing
8 documents, I have no idea what you could possibly
9 be talking about when you reference the purchasing
10 documents. But if you'd like to show them.

11 MR. HARTMAN: I'm trying to shorten the
12 process. You're right.

13 MR. ROBINSON: To be more blunt, I don't think
14 there's any purchasing documents that we have in
15 the sales file that makes that reference. I could
16 be wrong, and I would be --

17 MR. HARTMAN: I indicated both.

18 MR. ROBINSON: Right. And that makes -- that's
19 what made it compound. So if he answered it, yes,
20 then you have an answer for the purchasing
21 documents when, in fact, it's not true. The manual
22 itself, I believe I know what you're talking about.

23 BY MR. HARTMAN:

24 Q. I'm going to show you Exhibit No. 2, is

1 this a true and correct copy of the manual that
2 would have accompanied the 70-6 brake press that
3 was involved in Tina Lindquist's accident?

4 A. It appears to be --

5 Q. Okay.

6 A. -- a copy of that.

7 Q. Does this same manual accompany the brake
8 presses?

9 A. Yes.

10 Q. Okay. Does Heim have originals of this
11 manual?

12 A. Original?

13 Q. Well, since it still sells the brake
14 presses, does it still have the originals, this is
15 a copy?

16 A. Yes.

17 MR. HARTMAN: Would you please supply me an
18 original of this manual?

19 MR. ROBINSON: A current one? Just so you
20 don't think I'm being difficult here, you had
21 mentioned that some of the distributors identified
22 in the particular manual that we have relative to
23 this case are not legible in the copying. And I'm
24 saying if you ask for a current manual that

1 accompanies a present sale, there may be different
2 distributors, some of which may have gone out of
3 business previously. I don't know that, I'm just
4 saying that's a little different request than you
5 made to me off the record. I'm glad to give you
6 one or both, I just want to make sure I understand
7 your request.

8 THE WITNESS: If you don't mind --

9 MR. ROBINSON: Please, please.

10 THE WITNESS: They're all copies. They're not
11 original documents. I hope I'm explaining that
12 correctly.

13 BY MR. HARTMAN:

14 Q. What I want to do is be able to see the
15 actual photos utilized -- see real photos that are
16 photocopied in this and see the distributors for
17 the different -- that Heim indicates in here that
18 are blacked out on mine?

19 MR. ROBINSON: Yeah. And my point is are you
20 asking for those that were listed in 1978?

21 MR. HARTMAN: Yes.

22 MR. ROBINSON: That was different than what you
23 just asked him for.

24

1 BY MR. HARTMAN:

2 Q. Okay. Well, has this manual changed since
3 1970?

4 A. Yes.

5 Q. In what ways?

6 A. I would say it would change in probably
7 the control panel, which is changed somewhat today.

8 Q. In the control panel?

9 A. Yes.

10 Q. Would changes in the control panel relate
11 to point of operation protection?

12 MR. ROBINSON: I'll object to the form of the
13 question. I don't know what you mean when you say
14 relate to.

15 THE WITNESS: Let me answer the question as
16 when I'm referring to the control panel, it's the
17 operation for the functions of the press or for the
18 actuation its monitoring its lubrication and things
19 like that.

20 BY MR. HARTMAN:

21 Q. Those things have changed with regard to
22 brake presses manufactured by Heim?

23 A. Only in the -- only in that the we no
24 longer relay logic as opposed to solid state logic

1 today which is the current technology that's out
2 there today.

3 Q. So the new brake presses have upgraded
4 electronics?

5 A. Correct.

6 Q. That would be the only change as it
7 relates to brake presses from the beginning when
8 Heim first started making brake presses to now, am
9 I correct?

10 A. Correct.

11 Q. If a customer called and wanted a manual
12 that relates to the 70-6 brake press, am I correct
13 that Heim would have that available for the
14 customer?

15 A. Yes.

16 MR. HARTMAN: I would like an original one of
17 those, please.

18 THE WITNESS: Let me explain a little further.
19 I'm not quite sure when we say original because
20 this is what you would probably receive.

21 BY MR. HARTMAN:

22 Q. Is there one with the actual pictures?

23 A. Not that I'm aware of. You're looking --
24 if you're looking for --

1 Q. Pictures?

2 A. -- the actual diagrams and the actual
3 photos like this?

4 Q. Yeah.

5 A. I don't believe I -- I've never seen them.

6 Q. Would you check and see if there's one
7 that is clearer than what we've been provided?

8 A. Clearer?

9 MR. ROBINSON: We can check. We'd be glad to
10 do that.

11 THE WITNESS: My understanding is you're
12 looking for if we have the actual photo instead of
13 this reproduction copy ?

14 MR. ROBINSON: Mr. Hartman had asked me this
15 before the deposition began and I said I would look
16 for that and we would produce that if we had it
17 available.

18 THE WITNESS: Right.

19 BY MR. HARTMAN:

20 Q. Other than incorporating a foot pedal or a
21 two palm switch in the period of 1970 to 1980, did
22 Heim undertake to provide any other type of point
23 of operation protection with regard to brake
24 presses?

1 MR. ROBINSON: I'll object to the form of that
2 question.

3 BY MR. HARTMAN:

4 Q. Okay.

5 A. Can I ask you to be a little bit more
6 clearer on the question -- could you restate it for
7 me again, please?

8 Q. Okay. Generally -- let's talk about in a
9 generic sense.

10 A. Okay.

11 Q. When OSHA and ANSI talk about point of
12 operation protection, do you understand what that
13 is?

14 A. Yes.

15 Q. Tell me what your understanding of point
16 of operation protection is?

17 A. I believe point of operation guarding and
18 protection is responsible to the end user and it is
19 for prevention of any part going into a particular
20 dye space of a press or open spot of a press.

21 MR. ROBINSON: I think what you were asking,
22 Mr. Hartman, goes back to where we started a little
23 while ago asking Mr. Mase to go through what he
24 found when he researched this 1970, 1980. And I

1 think if the question is did you find any sales
2 files that noted the supplying of any, I think as
3 you've pointed out, other point of operation safety
4 devices besides a foot switch or a two palm button
5 switch, Mr. Mase will be able to answer that
6 question.

7 BY MR. HARTMAN:

8 Q. Would you please do that?

9 A. Yes.

10 I had pulled the files approximately from
11 serial number 260 to 2600 which --

12 Q. What was that, 260?

13 A. Serial number 260 to 2600, which would be
14 consecutive serial numbers for Heim products from
15 the year I'd say roughly 1970 through 1980. And I
16 did not see in those files that we ever provided
17 point of operation sensing devices such as a light
18 curtain or pull back or --

19 Q. I think -- pardon me but I may be correct
20 your misstatement. I think there's a difference
21 between sensing devices, point of operation
22 protection sensing devices and pull back switches.

23 MR. ROBINSON: He didn't say that -- I object
24 to that comment about his misstatement. He did not

1 say that they were the same.

2 MR. HARTMAN: Read back his statement if you
3 could, please. I think he did misstate it. I was
4 trying to correct.

5 MR. ROBINSON: Maybe my hearing did not allow
6 me to hear it. Let's hear that -- let's read back.
7 Okay. If that's the way --

8 (Record read as requested.)

9 BY MR. HARTMAN:

10 Q. I was correct, every once in a while I get
11 to tell your attorney I was right and he was wrong.

12 MR. ROBINSON: And Mr. Hartman was correct.

13 BY MR. HARTMAN:

14 Q. It's my understanding that presence
15 sensing devices detect the presence of an operator
16 in proximity to throw the machine and shut down the
17 machine and pull backs pull the operator's hands
18 away from the machine as the ram comes down, am I
19 correct?

20 A. Correct.

21 Q. So a presence sensing device -- strike
22 that.

23 A pull back is not a presence sensing
24 device?

1 A. Correct.

2 Q. In looking at the ANSI standard for the
3 1970s, that govern the 1970s, I note that it talks
4 about presence sensing devices, are you aware of
5 that?

6 MR. ROBINSON: I'll object to the form of the
7 question.

8 THE WITNESS: I haven't read it in there
9 specific, but I believe I'm aware of that.

10 BY MR. HARTMAN:

11 Q. In the '70s what type of presence sensing
12 devices was Heim aware of?

13 A. I do not know since I was not at the
14 company at the time.

15 MR. HARTMAN: Paul, he's pointed to talk about
16 this point of time, and if he doesn't have it.

17 MR. ROBINSON: I don't know if there's anyone
18 that can answer your questions since the press
19 brake was built that long ago we've produced to you
20 in person with one of the longest periods at Heim
21 that has information on, I believe, all of your
22 areas of designation. I don't know what else I can
23 say.

24

1 BY MR. HARTMAN:

2 Q. Okay. So Heim does not know whether it
3 was aware of presence sensing devices in the 1970s;
4 is that correct?

5 MR. ROBINSON: I'll object to the form of the
6 question. He's just indicated he can't speak on
7 behalf of Heim on that issue because he wasn't
8 employed there in throughout the '70s. So I think
9 that's an unfair question to ask.

10 MR. HARTMAN: I understand -- my position is,
11 Paul, that we're specifically limited to the period
12 of 1970 to '80 with regard to written discovery
13 requests. I've asked to have Heim designate
14 somebody to testify regarding this particular
15 machine and what standards applied. The
16 interrogatories indicate that the ANSI standard
17 applied to this particular press brake. And I'm
18 asking the corporate designee who is, in fact, the
19 person that Heim has chosen to talk about this as
20 to what Heim knew in the '70s.

21 MR. ROBINSON: You didn't actually ask that
22 question. You can ask Mr. Mase if he's aware of
23 anyone that would have information on it. I think
24 your question is very misleading because the

1 presence sensing sections of ANSI refer to employer
2 responsibility. So I think that's very misleading
3 the way you've couched that question. We've
4 produced someone that has the most information. If
5 you ever want to question the decision making
6 behind producing Mr. Mase who has been offered in
7 response to your request for a deposition, you can
8 do that. We can try to find out if there's someone
9 on a specific issue that might have more
10 information to you that is relevant. And I'll be
11 glad to work with you on that.

12 BY MR. HARTMAN:

13 Q. ANSI refers to presence sensing devices?

14 A. Yeah.

15 Q. They refer to it in the 1972 edition of
16 the ANSI standard that Heim indicated applies to
17 the press brake at issue, are you aware of that?

18 MR. ROBINSON: I'll object -- you need to
19 listen to his question because it's not a 1972
20 standard, it's a 1973 standard, and it refers to
21 the employer responsibilities. I'm just
22 cautioning. I'm objecting to the form of the
23 question.
24

1 BY MR. HARTMAN:

2 Q. With -- what year was the ANSI standard
3 adopted that applied to the press brake that's
4 involved in this case?

5 A. I believe ANSI standards were adopted in
6 1972.

7 Q. Okay. In 1972 the ANSI standard, when it
8 talks about safety devices for the point of
9 operation protection, refers to presence sensing
10 devices, are you aware of that?

11 A. Yes.

12 Q. Does Heim have knowledge as to what type
13 of presence sensing devices were available for
14 point of operation protection for this machine?

15 MR. ROBINSON: I'll object to the form of the
16 question. Again, if you can answer, Mr. Mase,
17 please go ahead. I have a problem with the way the
18 question is phrased.

19 THE WITNESS: I believe there was knowledge of
20 presence sensing devices.

21 BY MR. HARTMAN:

22 Q. What type of presence sensing devices were
23 available in 1973 through 1978?

24 MR. ROBINSON: I'll object to the form of the

1 question in that you're including a 7 year --
2 excuse me, a 5-year period of time. But again, if
3 you can answer the question from 1973, '74, '75,
4 '76, '77, '78.

5 BY MR. HARTMAN:

6 Q. Any type of presence sensing device that
7 was available at any time during that period.

8 A. I believe the presence sensing devices
9 were probably light curtains.

10 Q. Are you aware of any type of
11 radiofrequency presence sensing devices in the
12 period of 1973 to 1978?

13 A. I'm not familiar with radio -- I'm not
14 familiar with it.

15 Q. Okay. Are you aware of any type of
16 presence sensing mats that were available during
17 that period of time?

18 A. No.

19 Q. Okay. So the presence sensing devices
20 that you were aware of in the period of '73 to '78
21 would have been light curtains?

22 A. Yes.

23 Q. Do you know of any -- who manufactured
24 light curtains back then or is that too far for you

1 to go back?

2 A. I believe there was some manufacturers of
3 light curtains that I was familiar with.

4 Q. And who were they?

5 A. I believe they would have been, Link would
6 have been one. Dolanjenner might have been another
7 one.

8 Q. Would you say that?

9 A. Dolanjenner.

10 Q. Spell that.

11 A. D-o-l-a-n-j-e-n-n-e-r, Sick, S-i-c-k.
12 Those are a couple that come to mind.

13 Q. Would you agree that light curtain
14 technology was available for point of operation
15 protection for -- since the 1960s?

16 MR. ROBINSON: I'll object to the form of the
17 question.

18 THE WITNESS: I don't know that.

19 BY MR. HARTMAN:

20 Q. Okay. You would agree it was available in
21 the '70s?

22 MR. ROBINSON: I will object to the form of the
23 question.

24 THE WITNESS: I believe it was.

1 BY MR. HARTMAN:

2 Q. Okay. In your -- in the job you held
3 prior to your coming to work at Heim, were you
4 involved in the sale of machines with light
5 curtains?

6 MR. ROBINSON: Say that question again, I'm
7 sorry.

8 BY MR. HARTMAN:

9 Q. Prior to 1984 were you involved in the
10 sale of machines with light curtains?

11 MR. ROBINSON: I'll object to the form of the
12 question. With any employer?

13 MR. HARTMAN: Yes.

14 MR. ROBINSON: With any machine?

15 MR. HARTMAN: We'll find out what after?

16 MR. ROBINSON: I'm just making sure that the
17 Court is appreciable of my objection to the form of
18 that question.

19 THE WITNESS: I can't specifically think of a
20 particular case where I was involved with a sale of
21 a particular light curtain in that time frame. It
22 doesn't come to mind.

23 BY MR. HARTMAN:

24 Q. Would you agree that while you work with

1 Clearing you were aware that light curtains could
2 be utilized for point of operation protection?

3 A. Yes.

4 Q. Would you agree that in the period of 1970
5 to 1978 that you had seen light curtains in use for
6 point of operation protection?

7 MR. ROBINSON: I'll object to the form of the
8 question.

9 THE WITNESS: I believe I saw light curtains,
10 yes.

11 BY MR. HARTMAN:

12 Q. And would you agree that a light curtain
13 would provide point of operation protection on a
14 press brake?

15 MR. ROBINSON: Object to the form of the
16 question.

17 THE WITNESS: Yes, I believe that is true.

18 BY MR. HARTMAN:

19 Q. And that would be the period of 1970 and
20 1978?

21 A. Yes.

22 Q. Does Heim take the position with regard to
23 its manufacturer and sale of press brakes that it's
24 the end user's responsibility to provide point of

1 operation protection?

2 A. Yes.

3 Q. Is that why Heim does not provide light
4 curtains as a standard feature to its press brakes?

5 MR. ROBINSON: I'll object to the form of that
6 question. If you could answer it, please do.

7 THE WITNESS: Restate the question again.

8 BY MR. HARTMAN:

9 Q. Is that why Heim does not provide light
10 curtains as a standard feature with its press
11 brake?

12 A. We do not provide point of operation of
13 light curtains, no, we do not.

14 Q. That's why you don't put the light curtain
15 on the press brake as a standard feature?

16 MR. ROBINSON: What is?

17 BY MR. HARTMAN:

18 Q. Because you believe it's the employer's
19 responsibility to provide point of operation
20 protection?

21 A. That's correct.

22 Q. If you did not believe it was the
23 employer's responsibility with regard to point of
24 operation protection to provide it, could Heim

1 supply as a standard feature light curtains with
2 its press brakes?

3 MR. ROBINSON: Object to the form of the
4 question.

5 THE WITNESS: It's kind of vague, I think.
6 It's a general purpose machine tool, couldn't mount
7 it without knowing all the information involved
8 with the product that the customer was producing.

9 BY MR. HARTMAN:

10 Q. Why could you not mount the light curtain
11 on the press brake without knowing the type of
12 product the customer was producing?

13 A. To provide for the safety of the operator
14 there has to be a certain distance to braking the
15 beam to stop the press. Without knowing all of
16 that information as to the dye, where its location
17 with the product and how fast it's going to run,
18 what type of circumstances were involved in a
19 product, you couldn't ascertain that to do what I
20 think provide adequate safety for mounting the
21 light curtain.

22 Q. If Heim could ascertain the safe place to
23 mount the light curtain on the press brake and it
24 believed it was its responsibility to provide point

1 of operation protection, could Heim supply the
2 light curtain as a standard feature to its press
3 brakes?

4 MR. ROBINSON: Yeah, I'll object the form of
5 that question and instruct the witness not to
6 answer. It's too general. It's too vague, too
7 many variables involved. And I think it's an
8 attempt to mislead the witness and potentially the
9 Court.

10 BY MR. HARTMAN:

11 Q. What keeps Heim from providing a light
12 curtain as a standard feature on its press brake?

13 MR. ROBINSON: I'll object, it's been asked and
14 answered. He's just indicated a number of reasons
15 why it would not be safe for Heim to supply the
16 light curtains on its press brakes without knowing
17 the applications, the size of the dyes, everything
18 that the witness has just indicated. He's already
19 answered that question.

20 BY MR. HARTMAN:

21 Q. Well, you've answered it, I don't know if
22 you've answered everything to your knowledge as to
23 why you would not provide a point of operation
24 protection light curtain as a standard feature on a

1 press brake.

2 Would you please tell me, my question is,
3 sir, tell me the specific reasons why Heim did not
4 provide a light curtain on the model 70-6 for point
5 of operation protection?

6 MR. ROBINSON: Beyond what he's already told
7 you?

8 MR. HARTMAN: No I want to know his reasons
9 specifically. Explain detail about two reasons,
10 one is he says Heim believes it's the customer's
11 responsibility. And two, Heim doesn't know where
12 to mount the light curtain.

13 MR. ROBINSON: No, I disagree. Go ahead.

14 MR. HARTMAN: Can I please --

15 MR. ROBINSON: I thought you were finished.

16 MR. HARTMAN: You can read back everything
17 said. And the reason Heim doesn't know where to
18 mount the light curtain is because it doesn't know
19 the pieces and the speed, et cetera.

20 MR. ROBINSON: Right. That's the part --

21 MR. HARTMAN: Various factors, but it comes
22 down to Heim doesn't know where to mount the light
23 curtain to provide safety to the operator?

24 MR. ROBINSON: That may be your position.

1 BY MR. HARTMAN:

2 Q. Well, then explain to me the specific
3 reasons why Heim did not provide a light curtain on
4 the model 70-6?

5 MR. ROBINSON: Objection, asked and answered.
6 Mr. Mase, you can repeat or add whatever you want
7 to do, but it has been asked and answered very
8 clearly.

9 THE WITNESS: I don't mind answering it.

10 MR. ROBINSON: Pardon me?

11 THE WITNESS: I don't mind answering it.

12 MR. ROBINSON: Please do.

13 THE WITNESS: Because of the various operations
14 that we have no knowledge of and applications could
15 be as -- go into hundreds of thousands of different
16 types of applications, we would never know which
17 specific application would be used on that press.
18 So we would never be in a position to really
19 provide point of operation guarding for an end
20 user. There's just way too many variables.

21 BY MR. HARTMAN:

22 Q. Variables deal with application?

23 A. Correct.

24 Q. Anything else?

1 MR. ROBINSON: Objection, asked and answered on
2 a number of occasions.

3 MR. HARTMAN: I don't think it has been.

4 MR. ROBINSON: Well, that's okay, the record is
5 clear. And Mr. Mase is going to answer your
6 questions a number of times until we get to a
7 number that we're comfortable telling him that he's
8 answered enough. So you can keep going through
9 this. Go ahead, please.

10 THE WITNESS: We build a general purpose
11 machine. It can do numerous types of applications
12 that we would not have privy of information to.
13 The press that we provide there has to be other
14 items added to the machine for it to perform a
15 function. And we have no idea what that would be.

16 BY MR. HARTMAN:

17 Q. What type of items?

18 MR. ROBINSON: I'm sorry.

19 BY MR. HARTMAN:

20 Q. What type of items would be added to --
21 give me a general idea of what type of items are
22 added to the machine to make it function?

23 A. You would need a dye.

24 Q. But the dye is located under the ram, am I

1 correct?

2 A. Presumably.

3 Q. The dye is not located outside of the ram,
4 is it?

5 A. I do not know. It could. Anything's
6 possible. I mean, in these type of -- this is the
7 point, we don't know. As much as your mind can
8 comprehend is a possibility for an application.

9 Q. With regard to the 70-6 press brake, is it
10 Heim's position that it could -- that it knew that
11 the foot pedal would be the only form of point of
12 operation protection that would be utilized in
13 certain operations of the press brake?

14 MR. ROBINSON: I'll object to the form of the
15 question.

16 THE WITNESS: I believe they knew that it was a
17 form of actuation of the machine, but not
18 necessarily a point of operation safety.

19 BY MR. HARTMAN:

20 Q. Sir, earlier you testified that the two
21 types of point of operation protection that were
22 available for press brakes were the foot pedal and
23 the two palm switch, that's why I'm using the term
24 foot pedal and point of operation protection.

1 MR. ROBINSON: That statement has nothing to do
2 with his answer that he just gave you that you
3 appear to be dissatisfied with. He's indicated
4 that Heim would certainly know when a foot pedal is
5 sold, that it could be used as a means of
6 activating it. But he is -- that Heim would not
7 believe that that is the only means of activation
8 or that there would not be some point of operation
9 safety device.

10 MR. HARTMAN: He never said that, Paul, you're
11 putting words in his mouth. You're putting words
12 in his mouth.

13 MR. ROBINSON: Read back his last answer,
14 please.

15 (Record read as requested.)

16 MR. HARTMAN: Your statement of what he said
17 that he said that each machine had two types of
18 actuation, which would be a two palm switch and a
19 foot pedal, that's what I was disagreeing with that
20 he did not say.

21 MR. ROBINSON: I don't follow where you're
22 going, but I guess you should ask the next
23 question.

24

1 BY MR. HARTMAN:

2 Q. Does the foot pedal provide point of
3 operation protection to the operator?

4 MR. ROBINSON: Object to the form of the
5 question.

6 THE WITNESS: No.

7 BY MR. HARTMAN:

8 Q. Is the foot pedal designed to provide a
9 form of foot operation protection to the -- is the
10 foot pedal designed to provide a form of operation
11 protection -- operator protection at the point of
12 operation?

13 MR. ROBINSON: I'll object to the form of the
14 question.

15 THE WITNESS: I would answer that in a sense
16 that's means of activation of the machine.

17 BY MR. HARTMAN:

18 Q. So the foot pedal did is designed so you
19 don't have inadvertent activation?

20 A. Correct.

21 Q. In the manual that we have identified as
22 Exhibit No. 2 on Page 19, it says, foot pedal
23 control, and it states, the manual says that a foot
24 pedal control is furnished as standard equipment on

1 all Heim press brakes. Is this an accurate
2 statement?

3 MR. ROBINSON: Was it accurate back in 1978, is
4 that what you're asking?

5 BY MR. HARTMAN:

6 Q. Yes.

7 A. I believe so.

8 Q. And am I correct that Heim --

9 MR. ROBINSON: Were you going read the rest of
10 it?

11 MR. HARTMAN: Not right now I wasn't.

12 MR. ROBINSON: I just want to make sure, you've
13 left off the next two sentences which directly
14 relate to your prior question. It is on a long
15 cord and can be moved around into the -- let me
16 finish this for the Court.

17 MR. HARTMAN: I'm going to ask my questions.

18 MR. ROBINSON: Mr. Hartman.

19 MR. HARTMAN: You keep interrupting.

20 MR. ROBINSON: Mr. Hartman just ripped the
21 money annual out of my hands. I'd like to finish
22 reading --

23 MR. HARTMAN: It's my manual.

24 MR. ROBINSON: -- finish reading into the

1 record for the Court because I object to what
2 you're doing -- may I have the manual back so this
3 I can read it back then.

4 MR. HARTMAN: I'm working on my questions.

5 MR. ROBINSON: I'm going to get my own copy and
6 we'll finish reading it in for the Court so that
7 the Court can understand what type of misleading
8 technique is being used in this deposition.

9 MR. HARTMAN: Yeah, Paul.

10 MR. ROBINSON: What page was that?

11 MR. HARTMAN: 18.

12 MR. ROBINSON: Is there any reason why you're
13 not giving me Exhibit D to read this -- or
14 Exhibit --

15 MR. HARTMAN: 2.

16 MR. ROBINSON: Exhibit 2 to read this. Is
17 there a reason why you're engaging that type of
18 child-like behavior ripping it out of my hand? If
19 you rip another piece of paper out of my hand,
20 Mr. Hartman, we're going to complete the deposition
21 and you're going to have some other issues to deal
22 with.

23 MR. HARTMAN: Be my guest.

24 MR. ROBINSON: Just to complete the reading of

1 the partial reference that Mr. Hartman was
2 referencing, it says -- after it says, a foot pedal
3 control is furnished as standard equipment on all
4 Heim press brakes. It then goes on to say it is on
5 a long cord and can be moved around to the safest
6 and most convenient place for the operator. It has
7 a cover guard over the top of it to prevent an
8 object from falling on it and activating the press
9 or an accidental stepping on it.

10 I regret that Mr. Hartman does not have a
11 professional capacity to let me read out of the
12 particular exhibit that's being used. I have used
13 my copy so that we can let the Court know the
14 misleading nature of these questions.

15 MR. HARTMAN: What's misleading?

16 MR. ROBINSON: Please continue to ask these
17 questions. I can see -- I'm not going to engage in
18 a conversation like this.

19 BY MR. HARTMAN:

20 Q. Sir, was there anything misleading about
21 my question?

22 MR. ROBINSON: Objection. Don't answer the
23 question.

24

1 BY MR. HARTMAN:

2 Q. Did I accurately state what the manual
3 said as it relates to the foot pedal being standard
4 equipment?

5 A. You read the statement out of the manual,
6 yes.

7 Q. Did I accurately repeat your statement in
8 the beginning of this deposition when I asked the
9 point of operation protection where you said there
10 were two types of point of operation protection
11 provided, one was the foot pedal and one was the
12 two palm switch?

13 A. Correct.

14 Q. You said that?

15 A. Yes.

16 Q. I didn't misstate anything, did I?

17 A. No.

18 Q. And did I accurately state that with
19 regard to the foot pedal switch that when you're
20 referring to point of operation protection you're
21 talking about a means to activate the machine, but
22 the foot pedal switch protects against inadvertent
23 activation?

24 A. Correct.

1 Q. So I haven't misstated anything to you
2 with regard to the foot pedal, have I?

3 A. I don't believe so.

4 Q. And I've accurately throughout this
5 repeated what your testimony was as it relates to
6 the foot pedal switch, am I correct?

7 A. Correct.

8 Q. Sir, when you talk about Heim's reasons
9 for not putting point of operation protection on
10 the press brake in the 1970s, you don't know why
11 Heim did not provide point of operation protection
12 in the 1970s, do you?

13 MR. ROBINSON: I'll object to the form of the
14 question. He's already answered that questioned
15 and given you a number of reasons why the
16 manufacturer does not provide point of operation
17 safety devices. Other than what he's indicated.

18 BY MR. HARTMAN:

19 Q. Sir, have you discussed with anyone at
20 Heim why they did not put light curtains on the
21 press brakes for the 1970s?

22 A. I don't know.

23 Q. You did not?

24 A. I did not.

1 Q. Did you work for Heim in the 1970s?

2 A. No.

3 Q. Okay. Did you talk to any representative
4 of Heim who told you they had knowledge as to why
5 they did not put light curtains on press brakes for
6 the 1970s?

7 A. No.

8 Q. So the reason you say Heim did not put
9 press brakes -- strike that.

10 The reason why you have indicated that
11 Heim did not put light curtains as point of
12 operation protection on its press brakes in the
13 1970s, are your reasons, not Heim's reasons, am I
14 correct?

15 MR. ROBINSON: I'll object to the form of the
16 question. They may also be Heim's reasons.

17 BY MR. HARTMAN:

18 Q. Are they your reasons or are they Heim's
19 reasons?

20 A. They're my reasons.

21 Q. You can't testify today as to Heim's
22 reasons for not putting light curtains on press
23 brakes for the 1970s, am I correct?

24 A. Only in the sense I wasn't employed there

1 at the time.

2 Q. So you don't know what Heim's reasons
3 were?

4 A. Correct.

5 Q. Now, if a customer -- am I correct that
6 Heim has made approximately 50,000 different types
7 of presses and press brakes total?

8 A. Under the umbrella of Heim, yes.

9 Q. Okay.

10 A. To expand on that statement there has been
11 approximately, I would estimate, maybe 15,000 under
12 the brand name Heim.

13 Q. And how many -- what is the brand name for
14 the other 35,000?

15 A. Roselle.

16 Q. Would it be fair that Heim owns Heim and
17 Roselle?

18 A. Yes.

19 Q. It's just a different brand name?

20 A. Yes.

21 MR. ROBINSON: I'll on object to the form of
22 the question. Heim Group is what is used to
23 designate both the Heim L.P. separate entity and
24 the Roselle, I'm not sure if it's L.P. or Corp or

1 what it is. So it depends how you're using Heim.

2 BY MR. HARTMAN:

3 Q. Okay. I guess that's a fair question.

4 I've got to figure out who I sue in this
5 case .

6 MR. ROBINSON: We worked this out in the
7 beginning, I think you included Heim Group and I
8 told you this particular group is Heim L.P.

9 MR. HARTMAN: Heim L.P. is a different
10 corporation than Heim Group.

11 MR. ROBINSON: Heim Group from my
12 understanding, you can correct me if I'm wrong, is
13 not a corporate entity, it is a trade name used to
14 designate both entities.

15 MR. HARTMAN: The only reason I'm belaboring
16 this is I need to know how this Roselle relates.
17 Is Roselle just a brand name of Heim L.P.'s
18 machines?

19 MR. ROBINSON: That's what we've said, no. Go
20 ahead.

21 THE WITNESS: Roselle is a trademark name used
22 for presses, only presses for the Roselle product
23 line.

24

1 BY MR. HARTMAN:

2 Q. And that's owned --

3 A. They're in the press brakes.

4 Q. And that's owned by Heim L.P.?

5 A. I believe it is.

6 Q. And Heim L.P. has 15,000 machines?

7 A. I believe that's correct.

8 Q. And of the 15,000 machines do you have any
9 idea how many are press brakes as opposed to other
10 types of presses?

11 A. I'd have to estimate.

12 Q. Can give me an estimate?

13 A. A rough estimate, 1,000.

14 Q. Am I correct that the life expectancy of a
15 press brake is 100 years or so, they just don't
16 break, am I correct?

17 MR. ROBINSON: I'll object to the form of the
18 question. You said they just don't break. You're
19 saying they don't break in a 100 years.

20 BY MR. HARTMAN:

21 Q. I'm sorry. These machines -- would you
22 agree that essentially all of the press brakes that
23 Heim has made are still in use today?

24 A. I don't know that.

1 Q. Would you have any idea?

2 A. They have a long life expectancy.

3 Q. What would be the life expectancy?

4 MR. ROBINSON: I'll object to the form of the
5 question. What circumstance? In what application?
6 I don't think that's a fair question.

7 MR. HARTMAN: Okay. That's a difficult
8 question, I agree.

9 MR. ROBINSON: Just to complete it I don't know
10 what you mean by life expectancy. I understand
11 that things can be repaired if you own a lot of
12 older cars. I don't know if that's standard life
13 expectancy if you can repair a product such that it
14 would last for a certain number of years or if
15 you --

16 MR. HARTMAN: I can get what I need in another
17 way.

18 MR. ROBINSON: Okay.

19 BY MR. HARTMAN:

20 Q. Would it be a fair statement that Heim
21 still services all of the press brakes its
22 manufactured?

23 MR. ROBINSON: All of them?

24 MR. HARTMAN: Yes.

1 THE WITNESS: All -- it's a mature product, I
2 don't believe all of them are in existence today.

3 MR. ROBINSON: I don't know what you mean by
4 servicing them.

5 BY MR. HARTMAN:

6 Q. What I mean by servicing, if somebody
7 called and had a 70-6 that was made in the '60s,
8 '70s, '80s, '90s, they could still get replacement
9 parts for it, you still have the technical journals
10 for it, you still have the manuals for it, am I
11 correct?

12 A. Yes.

13 Q. So what I mean is that you're still able
14 to provide all the support for all of the press
15 brakes you've manufactured, am I correct?

16 A. Yes.

17 Q. So with regard to the foot pedal, if
18 someone lost the foot pedal, they would be able to
19 contact you and order a replacement foot pedal?

20 A. It's available.

21 Q. And would you agree that a foot pedal that
22 was used in 1967 when they were first made is
23 similar to the foot pedal that's used today?

24 MR. ROBINSON: I'll object to the form of the

1 question. Similar in what way, that it's activated
2 by pushing down on a level with your foot or
3 another in other features?

4 BY MR. HARTMAN:

5 Q. Is there any additional safety feature in
6 the foot pedals manufactured today that was not in
7 place in 1978?

8 A. I believe so.

9 Q. And what would that be?

10 A. And I believe there's a kick plate today.

11 Q. What's a kick plate?

12 A. It's a device so you can't accidentally
13 just step on the pedal that, you have to lift a
14 plate to get your foot in.

15 Q. And when did Heim start making the kick
16 plate?

17 A. We don't manufacture the kick plate.

18 Q. Who manufactures them?

19 A. I don't know specifically who the -- it's
20 a commercial available item.

21 MR. ROBINSON: Are we talking about presently
22 or back in '78?

23 MR. HARTMAN: I'm going to work my way back.

24 MR. ROBINSON: What were you asking about?

1 BY MR. HARTMAN:

2 Q. Well, now who manufactures the foot pedal?

3 A. We do not manufacture the foot pedal, it's
4 a purchasing.

5 Q. I think you said earlier that it was a
6 commodity?

7 A. Commercially available item.

8 Q. Has your vendor changed since 1978 as to
9 who provides your foot pedals?

10 A. I don't know the answer to that question.

11 Q. Would that information be available?

12 A. I believe it would be.

13 Q. Would there be foot pedals available of
14 the style that were made in -- that were
15 accompanied in 1978, brake press?

16 MR. ROBINSON: I'll object to the form. I
17 don't understand the question.

18 THE WITNESS: They would be similar.

19 BY MR. HARTMAN:

20 Q. Yes?

21 A. Yes.

22 Q. Meaning it doesn't have a kick plate?

23 A. It would be similar for that version, yes.

24 Q. Right. The foot pedals that were

1 available until '78 that accompanied the machine
2 Ms. Lindquist was involved in according to the
3 picture does not have a kick plate?

4 A. Correct.

5 Q. What protects the operator from
6 inadvertent actuation is the cover, am I correct?

7 A. The shield, yes.

8 Q. Is there anything inside the pedal once
9 you stick your foot in that prevents the operator
10 from inadvertently activating the machine?

11 MR. ROBINSON: Which one are we talking about.

12 MR. HARTMAN: The 70-6.

13 MR. ROBINSON: The 1978 foot pedal.

14 MR. HARTMAN: Correct.

15 MR. ROBINSON: All right. If you know.

16 THE WITNESS: I don't believe there's anything
17 else in there. It's a shielded cover.

18 BY MR. HARTMAN:

19 Q. The shield covers it so you don't step on
20 it so you just slide your foot in, push down and it
21 activates the machine, correct?

22 A. I believe that's correct.

23 Q. And back then those foot pedals were again
24 a commodity, you can buy just about any type of

1 food pedal that had a shield and hook it up to the
2 Heim press, am I correct?

3 A. I believe that's the case, yes.

4 Q. Do you know why the foot pedal has changed
5 to where there's a kick plate?

6 A. Additional product safety.

7 Q. And does Heim agree that it does provide
8 additional product safety?

9 A. I believe it does.

10 Q. Okay. Do you know what no hands and dye
11 means?

12 A. Yes.

13 Q. Okay. Am I correct it's a procedure for
14 safeguarding the operator from inadvertent injury
15 at the point of operation?

16 A. Correct.

17 Q. In 1978 did Heim practice and promote the
18 no hands and dye method of operator protection?

19 A. Yes.

20 MR. ROBINSON: I'll object to the form of the
21 question.

22 BY MR. HARTMAN:

23 Q. Okay. The no hands and dye method of
24 operator protection is evidenced in the warnings on

1 the machine, am I correct?

2 A. Yes.

3 Q. And in the warnings in the manual, am I
4 correct?

5 A. Yes.

6 Q. What studies did Heim do to ascertain
7 whether or not the no hands and dye method was a
8 viable method to protect the operator from point of
9 operation protection?

10 MR. ROBINSON: I'll object to the form of the
11 question. This is what I was going on in the last
12 question. The question as asked gives the
13 impression that it is the only point of operation
14 or the only safety device that would be available
15 to an operator using a model 70-6 in 1978. And I
16 think that's misleading.

17 BY MR. HARTMAN:

18 Q. Okay. Other than the no hands and dye
19 method of operator protection on the 70-6 press
20 brake, did Heim provide any type -- any additional
21 type of point of operation protection with regard
22 to that particular press brake in '78?

23 MR. ROBINSON: And I'll object to the form of
24 the question. The point of operation safety device

1 can be interpreted in a number of ways. And I
2 think the witness has already referenced other --
3 well, I leave it at that.

4 BY MR. HARTMAN:

5 Q. Again, sir, my question is, other than the
6 no hands and dye method of point of operation
7 protection, did Heim provide any other mechanism
8 for point of operation protection with the model
9 70-6 press brake that was involved in this lawsuit?

10 MR. ROBINSON: Same objection.

11 THE WITNESS: Other than the foot switch and
12 the palm button station, no.

13 BY MR. HARTMAN:

14 Q. Sir, the sales records I have, it's I
15 believe agreed upon by Mr. Robinson and myself, one
16 of the few things we agree on, is that a two palm
17 switch did not accompany this machine at the time
18 of the original sale. Do you agree or disagree
19 with that statement?

20 A. The file indicates a palm button station
21 was not furnished.

22 MR. ROBINSON: I think your last question said
23 70-6.

24 MR. HARTMAN: That was involved in this.

1 MR. ROBINSON: I didn't catch that. And
2 perhaps he was referencing it, we all know it was
3 available to the user here -- I shouldn't say the
4 user, the employer and therefore the user.

5 MR. HARTMAN: I mean, there's a whole bunch of
6 things that you're going to want to bring in, and
7 feel free to do so. I'm going to ask my questions,
8 I'm not trying to mislead you. I'm trying to find
9 out discrete, distinct things. Let's go back to
10 the question.

11 BY MR. HARTMAN:

12 Q. With regard to the 70-6 press brake that
13 Ms. Lindquist was injured on, other than the no
14 hands and dye method of point of operation
15 protection and the foot switch, am I correct that
16 there was no other type of point of operation
17 protection provided with that machine?

18 MR. ROBINSON: Object to the form.

19 THE WITNESS: I believe that's correct.

20 MR. HARTMAN: Would you tell me what problem
21 you have with the form of my question so I can
22 repeat it or ask it.

23 MR. ROBINSON: I think that your reference to
24 point of operation safety devices is so broad in

1 that Mr. Mase may be thinking of certain things,
2 you may be thinking of things. I can see a number
3 of other different methods, particularly the length
4 of the cord that's referenced in the manual that
5 you would not permit me to read, particularly the
6 hand tool that accompanied the sale of the press
7 brake may be considered a point of operation safety
8 device by however you're using that phrase.

9 BY MR. HARTMAN:

10 Q. When we're talking about point of
11 operation protection, what is your understanding of
12 point of operation protection as I use that term?

13 A. I believe it to be a barrier guard, a
14 light curtain, a pull back restraint or something
15 like that that would provide additional safety to
16 access a dye space as opposed to a palm button
17 station or a foot switch that provides more
18 activation of the press rather than some type of
19 barrier where I can't reach into something.

20 Q. Your understanding of it and my
21 understanding are the same so that's how I'm
22 referring to it as well.

23 A. Okay. Okay.

24 Q. Sir, am I correct that Heim was aware in

1 1978 when it manufactured the press brake that
2 operators of the press brake may have parts of
3 their body in the dye ram area?

4 MR. ROBINSON: Object to the form. What are
5 you asking that it's a possibility?

6 MR. HARTMAN: That it happens.

7 MR. ROBINSON: Pardon me?

8 MR. HARTMAN: That Heim knows it occurs.

9 THE WITNESS: I would answer that question
10 saying, yes, and that's why we have the sign on the
11 press.

12 BY MR. HARTMAN:

13 Q. I understand. But being a manufacturer of
14 press brakes, Heim understands that one of the
15 dangers of the press brake is that operators will
16 have parts of their body or could have parts of
17 their body in the dye area?

18 MR. ROBINSON: Yeah, objection. Are you asking
19 if it's possible, if it's possible?

20 MR. HARTMAN: Yes.

21 BY MR. HARTMAN:

22 Q. Did you know it was possible?

23 A. Yes, it's possible.

24 Q. And did you know that it occurs?